

### **Part 3 Licensing**

#### **58-67-301 Licensure required -- License classifications.**

- (1) A license is required to engage in the practice of medicine, on or for any person in Utah, as a physician and surgeon, except as specifically provided in Section 58-1-307 or 58-67-305.
- (2) The division shall issue to a person who qualifies under this chapter a license in the classification of physician and surgeon.

Enacted by Chapter 248, 1996 General Session

#### **58-67-302 Qualifications for licensure.**

- (1) An applicant for licensure as a physician and surgeon, except as set forth in Subsection (2), shall:
  - (a) submit an application in a form prescribed by the division, which may include:
    - (i) submissions by the applicant of information maintained by practitioner data banks, as designated by division rule, with respect to the applicant;
    - (ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and
    - (iii) authorization to use a record coordination and verification service approved by the division in collaboration with the board;
  - (b) pay a fee determined by the department under Section 63J-1-504;
  - (c) be of good moral character;
  - (d) provide satisfactory documentation of having successfully completed a program of professional education preparing an individual as a physician and surgeon, as evidenced by:
    - (i) having received an earned degree of doctor of medicine from an LCME accredited medical school or college; or
    - (ii) if the applicant graduated from a medical school or college located outside the United States or its territories, submitting a current certification by the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;
  - (e) satisfy the division and board that the applicant:
    - (i) has successfully completed 24 months of progressive resident training in a program approved by the ACGME, the Royal College of Physicians and Surgeons, the College of Family Physicians of Canada, or any similar body in the United States or Canada approved by the division in collaboration with the board; or
    - (ii)
      - (A) has successfully completed 12 months of resident training in an ACGME approved program after receiving a degree of doctor of medicine as required under Subsection (1) (d);
      - (B) has been accepted in and is successfully participating in progressive resident training in an ACGME approved program within Utah, in the applicant's second or third year of postgraduate training; and
      - (C) has agreed to surrender to the division the applicant's license as a physician and surgeon without any proceedings under Title 63G, Chapter 4, Administrative Procedures Act, and has agreed the applicant's license as a physician and surgeon will be automatically

- revoked by the division if the applicant fails to continue in good standing in an ACGME approved progressive resident training program within the state;
- (f) pass the licensing examination sequence required by division rule made in collaboration with the board;
  - (g) be able to read, write, speak, understand, and be understood in the English language and demonstrate proficiency to the satisfaction of the board if requested by the board;
  - (h) meet with the board and representatives of the division, if requested, for the purpose of evaluating the applicant's qualifications for licensure;
  - (i) designate:
    - (i) a contact person for access to medical records in accordance with the federal Health Insurance Portability and Accountability Act; and
    - (ii) an alternate contact person for access to medical records, in the event the original contact person is unable or unwilling to serve as the contact person for access to medical records; and
  - (j) establish a method for notifying patients of the identity and location of the contact person and alternate contact person, if the applicant will practice in a location with no other persons licensed under this chapter.
- (2) An applicant for licensure as a physician and surgeon by endorsement who is currently licensed to practice medicine in any state other than Utah, a district or territory of the United States, or Canada shall:
- (a) be currently licensed with a full unrestricted license in good standing in any state, district, or territory of the United States, or Canada;
  - (b) have been actively engaged in the legal practice of medicine in any state, district, or territory of the United States, or Canada for not less than 6,000 hours during the five years immediately preceding the date of application for licensure in Utah;
  - (c) comply with the requirements for licensure under Subsections (1)(a) through (d), (1)(e)(i), and (1)(g) through (j);
  - (d) have passed the licensing examination sequence required in Subsection (1)(f) or another medical licensing examination sequence in another state, district or territory of the United States, or Canada that the division in collaboration with the board by rulemaking determines is equivalent to its own required examination;
  - (e) not have any investigation or action pending against any health care license of the applicant, not have a health care license that was suspended or revoked in any state, district or territory of the United States, or Canada, and not have surrendered a health care license in lieu of a disciplinary action, unless:
    - (i) the license was subsequently reinstated as a full unrestricted license in good standing; or
    - (ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant, that:
      - (A) the conduct has been corrected, monitored, and resolved; or
      - (B) a mitigating circumstance exists that prevents its resolution, and the division in collaboration with the board is satisfied that, but for the mitigating circumstance, the license would be reinstated;
  - (f) submit to a records review, a practice history review, and comprehensive assessments, if requested by the division in collaboration with the board; and
  - (g) produce satisfactory evidence that the applicant meets the requirements of this Subsection (2) to the satisfaction of the division in collaboration with the board.

- (3) An applicant for licensure by endorsement may engage in the practice of medicine under a temporary license while the applicant's application for licensure is being processed by the division, provided:
- (a) the applicant submits a complete application required for temporary licensure to the division;
  - (b) the applicant submits a written document to the division from:
    - (i) a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, stating that the applicant is practicing under the:
      - (A) invitation of the health care facility; and
      - (B) the general supervision of a physician practicing at the facility; or
    - (ii) two individuals licensed under this chapter, whose license is in good standing and who practice in the same clinical location, both stating that:
      - (A) the applicant is practicing under the invitation and general supervision of the individual; and
      - (B) the applicant will practice at the same clinical location as the individual;
  - (c) the applicant submits a signed certification to the division that the applicant meets the requirements of Subsection (2);
  - (d) the applicant does not engage in the practice of medicine until the division has issued a temporary license;
  - (e) the temporary license is only issued for and may not be extended or renewed beyond the duration of one year from issuance; and
  - (f) the temporary license expires immediately and prior to the expiration of one year from issuance, upon notification from the division that the applicant's application for licensure by endorsement is denied.
- (4) The division shall issue a temporary license under Subsection (3) within 15 business days after the applicant satisfies the requirements of Subsection (3).
- (5) The division may not require a post-residency board certification as a requirement for licensure.

Amended by Chapter 162, 2012 General Session

Amended by Chapter 225, 2012 General Session

#### **58-67-302.5 Licensing of graduates of foreign medical schools.**

- (1) Notwithstanding any other provision of law to the contrary, an individual enrolled in a medical school outside the United States, its territories, the District of Columbia, or Canada is eligible for licensure as a physician and surgeon in this state if the individual has satisfied the following requirements:
- (a) meets all the requirements of Subsection 58-67-302(1), except for Subsection 58-67-302(1)(d);
  - (b) has studied medicine in a medical school located outside the United States which is recognized by an organization approved by the division;
  - (c) has completed all of the formal requirements of the foreign medical school except internship or social service;
  - (d) has attained a passing score on the educational commission for foreign medical graduates examination or other qualifying examinations such as the United States Medical Licensing Exam parts I and II, which are approved by the division or a medical school approved by the division;
  - (e) has satisfactorily completed one calendar year of supervised clinical training under the direction of a United States medical education setting accredited by the liaison committee for graduate medical education and approved by the division;

- (f) has completed the postgraduate hospital training required by Subsection 58-67-302(1)(e)(i); and
- (g) has passed the examination required by the division of all applicants for licensure.
- (2) Satisfaction of the requirements of Subsection (1) is in lieu of:
  - (a) the completion of any foreign internship or social service requirements; and
  - (b) the certification required by Subsection 58-67-302(1)(d).
- (3) Individuals who satisfy the requirements of Subsections (1)(a) through (f) shall be eligible for admission to graduate medical education programs within the state, including internships and residencies, which are accredited by the liaison committee for graduate medical education.
- (4) A document issued by a medical school located outside the United States shall be considered the equivalent of a degree of doctor of medicine for the purpose of licensure as a physician and surgeon in this state if:
  - (a) the foreign medical school is recognized by an organization approved by the division;
  - (b) the document granted by the foreign medical school is issued after the completion of all formal requirements of the medical school except internship or social service; and
  - (c) the foreign medical school certifies that the person to whom the document was issued has satisfactorily completed the requirements of Subsection (1)(c).
- (5) The provisions for licensure under this section shall be known as the "fifth pathway program."

Amended by Chapter 214, 2011 General Session

#### **58-67-302.7 Licensing of physician-educators.**

- (1) As used in this section:
  - (a) "Foreign country" means a country other than the United States, its territories, or Canada.
  - (b) "Foreign medical school" means a medical school that is outside the United States, its territories, and Canada.
- (2) Notwithstanding any provision of law to the contrary, an individual may receive a type I foreign teaching license if the individual:
  - (a) submits an application in a form prescribed by the division, which may include:
    - (i) submission by the applicant of information maintained in a practitioner data bank, as designated by division rule, with respect to the applicant;
    - (ii) a record of professional liability claims made against the applicant and settlements paid by or on behalf of the applicant; and
    - (iii) the applicant's curriculum vitae;
  - (b) is a graduate of a foreign medical school that is accepted for certification by the Educational Commission for Foreign Medical Graduates;
  - (c) is licensed in good standing in a foreign country, the United States, its territories, or Canada;
  - (d) does not have an investigation or action pending against the physician's healthcare license, does not have a healthcare license that was suspended or revoked, and has not surrendered a healthcare license in lieu of disciplinary action, unless:
    - (i) the license was subsequently reinstated in good standing; or
    - (ii) the division in collaboration with the board determines to its satisfaction, after full disclosure by the applicant and full consideration by the division in collaboration with the board, that:
      - (A) the conduct has been corrected, monitored, and resolved; or
      - (B) a mitigating circumstance exists that prevents resolution, and the division in collaboration with the board is satisfied that but for the mitigating circumstance, the license would be reinstated;
  - (e) submits documentation of legal status to work in the United States;

- (f) meets at least three of the following qualifications:
    - (i)
      - (A) published original results of clinical research, within 10 years before the day on which the application is submitted, in a medical journal listed in the Index Medicus or an equivalent scholarly publication; and
      - (B) submits the publication to the Board in English or in a foreign language with a verifiable, certified English translation;
    - (ii) held an appointment at a medical school approved by the LCME or at any medical school listed in the World Health Organization directory at the level of associate or full professor, or its equivalent, for at least five years;
    - (iii)
      - (A) developed a treatment modality, surgical technique, or other verified original contribution to the field of medicine within 10 years before the day on which the application is submitted; and
      - (B) has the treatment modality, surgical technique, or other verified original contribution attested to by the dean of an LCME accredited school of medicine in Utah;
    - (iv) actively practiced medicine cumulatively for 10 years; or
    - (v) is board certified in good standing of a board of the American Board of Medical Specialties or equivalent specialty board;
  - (g) is of good moral character;
  - (h) is able to read, write, speak, understand, and be understood in the English language and demonstrates proficiency to the satisfaction of the division in collaboration with the board, if requested;
  - (i) is invited by an LCME accredited medical school in Utah to serve as a full-time member of the medical school's academic faculty, as evidenced by written certification from:
    - (i) the dean of the medical school, stating that the applicant has been appointed to a full-time faculty position, that because the applicant has unique expertise in a specific field of medicine the medical school considers the applicant to be a valuable member of the faculty, and that the applicant is qualified by knowledge, skill, and ability to practice medicine in the state; and
    - (ii) the head of the department to which the applicant is to be appointed, stating that the applicant will be under the direction of the head of the department and will be permitted to practice medicine only as a necessary part of the applicant's duties, providing detailed evidence of the applicant's qualifications and competence, including the nature and location of the applicant's proposed responsibilities, reasons for any limitations of the applicant's practice responsibilities, and the degree of supervision, if any, under which the applicant will function;
  - (j) pays a licensing fee set by the division under Section 63J-1-504; and
  - (k) has practiced medicine for at least 10 years as an attending physician.
- (3) Notwithstanding any provision of law to the contrary, an individual may receive a type II foreign teaching license if the individual:
- (a) satisfies the requirements of Subsections (2)(a) through (e) and (g) through (j);
  - (b) has delivered clinical care to patients cumulatively for five years after graduation from medical school; and
  - (c)
    - (i) will be completing a clinical fellowship while employed at the medical school described in Subsection (2)(i); or

- (ii) has already completed a medical residency accredited by the Royal College of Physicians and Surgeons of Canada, the United Kingdom, Australia, or New Zealand, or a comparable accreditation organization as determined by the division in collaboration with the board.
- (4) After an initial term of one year, a type I license may be renewed for periods of two years if the licensee continues to satisfy the requirements described in Subsection (2) and completes the division's continuing education renewal requirements established under Section 58-67-303.
- (5) A type II license may be renewed on an annual basis, up to four times, if the licensee continues to satisfy the requirements described in Subsection (3) and completes the division's continuing education renewal requirements established under Section 58-67-303.
- (6) A license issued under this section:
  - (a) authorizes the licensee to practice medicine:
    - (i) within the scope of the licensee's employment at the medical school described in Subsection (2)(i) and the licensee's academic position; and
    - (ii) at a hospital or clinic affiliated with the medical school described in Subsection (2)(i) for the purpose of teaching, clinical care, or pursuing research;
  - (b) shall list the limitations described in Subsection (6)(a); and
  - (c) shall expire on the earlier of:
    - (i) one year after the day on which the type I or type II license is initially issued, unless the license is renewed;
    - (ii) for a type I license, two years after the day on which the license is renewed;
    - (iii) for a type II license, one year after the day on which the license is renewed; or
    - (iv) the day on which employment at the medical school described in Subsection (2)(i) ends.
- (7) A person who holds a type I license for five consecutive years may apply for licensure as a physician and surgeon in this state and shall be licensed if the individual satisfies the requirements described in Subsection (8). If the person fails to obtain licensure as a physician and surgeon in this state, the person may apply for a renewal of the type I license under Subsection (2).
- (8) An individual who holds a type I or type II license for five consecutive years is eligible for licensure as a physician and surgeon in this state if the individual:
  - (a) worked an average of at least 40 hours per month at the level of an attending physician during the time the individual held the type I or type II license;
  - (b) holds the rank of associate professor or higher at the medical school described in Subsection (2)(i);
  - (c) obtains certification from the Educational Commission for Foreign Medical Graduates or any successor organization approved by the division in collaboration with the board;
  - (d) spent a cumulative 20 hours per year while holding a type I or type II license:
    - (i) teaching or lecturing to medical students or house staff;
    - (ii) participating in educational department meetings or conferences that are not certified to meet the continuing medical education license renewal requirement; or
    - (iii) attending continuing medical education classes in addition to the requirements for continuing education described in Subsections (4) and (5);
  - (e) obtains a passing score on the final step of the licensing examination sequence required by division rule made in collaboration with the board; and
  - (f) satisfies the requirements described in Subsections 58-67-302(1)(a) through (c), (h), and (i).
- (9) If a person who holds a type II license fails to obtain licensure as a physician and surgeon in this state after applying under the procedures described in Subsection (8), the person may not:
  - (a) reapply for or renew a type II license; or
  - (b) apply for a type I license.

- (10) The division or the board may require an applicant for licensure under this section to meet with the board and representatives of the division for the purpose of evaluating the applicant's qualifications for licensure.
- (11) The division in collaboration with the board may withdraw a license under this section at any time for material misrepresentation or unlawful or unprofessional conduct.

Amended by Chapter 258, 2015 General Session

**58-67-303 Term of license -- Expiration -- Renewal.**

- (1)
  - (a) Except as provided in Section 58-67-302.7, the division shall issue each license under this chapter in accordance with a two-year renewal cycle established by division rule.
  - (b) The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the licensee shall show compliance with:
  - (a) continuing education renewal requirements; and
  - (b) the requirement for designation of a contact person and alternate contact person for access to medical records and notice to patients as required by Subsections 58-67-304(1)(b) and (c).
- (3) Each license issued under this chapter expires on the expiration date shown on the license unless renewed in accordance with Section 58-1-308.

Amended by Chapter 206, 2011 General Session

**58-67-304 License renewal requirements.**

- (1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by division rule:
  - (a) complete qualified continuing professional education requirements in accordance with the number of hours and standards defined by division rule made in collaboration with the board;
  - (b) appoint a contact person for access to medical records and an alternate contact person for access to medical records in accordance with Subsection 58-67-302(1)(i); and
  - (c) if the licensee practices medicine in a location with no other persons licensed under this chapter, provide some method of notice to the licensee's patients of the identity and location of the contact person and alternate contact person for the licensee.
- (2) If a renewal period is extended or shortened under Section 58-67-303, the continuing education hours required for license renewal under this section are increased or decreased proportionally.
- (3) An application to renew a license under this chapter shall:
  - (a) require a physician to answer the following question: "Do you perform elective abortions in Utah in a location other than a hospital?"; and
  - (b) immediately following the question, contain the following statement: "For purposes of the immediately preceding question, elective abortion means an abortion other than one of the following: removal of a dead fetus, removal of an ectopic pregnancy, an abortion that is necessary to avert the death of a woman, an abortion that is necessary to avert a serious risk of substantial and irreversible impairment of a major bodily function of a woman, an abortion of a fetus that has a defect that is uniformly diagnosable and uniformly lethal, or an abortion where the woman is pregnant as a result of rape or incest."
- (4) In order to assist the Department of Health in fulfilling its responsibilities relating to the licensing of an abortion clinic, if a physician responds positively to the question described in Subsection

- (3)(a), the division shall, within 30 days after the day on which it renews the physician's license under this chapter, inform the Department of Health in writing:
- (a) of the name and business address of the physician; and
  - (b) that the physician responded positively to the question described in Subsection (3)(a).

Amended by Chapter 161, 2011 General Session  
Amended by Chapter 214, 2011 General Session

### **58-67-305 Exemptions from licensure.**

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

- (1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;
- (2) an individual administering a domestic or family remedy;
- (3)
  - (a)
    - (i) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and
    - (ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and
  - (b) Subsection (3)(a) does not:
    - (i) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or
    - (ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);
- (4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;
- (5) an individual authorized by the Department of Health under Section 26-1-30, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), or 72-10-502(5)(a)(vi);
- (6) a medical assistant while working under the indirect supervision of a licensed physician and surgeon, to the extent the medical assistant:
  - (a) is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of medicine;
  - (b) does not perform surgical procedures;
  - (c) does not prescribe prescription medications;
  - (d) does not administer anesthesia, anesthesia does not mean a local anesthetic for minor procedural use; and
  - (e) does not engage in other medical practices or procedures as defined by division rule in collaboration with the board;
- (7) an individual engaging in the practice of medicine when:
  - (a) the individual is licensed in good standing as a physician in another state with no licensing action pending and no less than 10 years of professional experience;
  - (b) the services are rendered as a public service and for a noncommercial purpose;
  - (c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and
  - (d) the individual does not otherwise engage in unlawful or unprofessional conduct;

- (8) an individual providing expert testimony in a legal proceeding; and
- (9) an individual who is invited by a school, association, society, or other body approved by the division to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:
  - (a) the individual does not establish a place of business in this state;
  - (b) the individual does not regularly engage in the practice of medicine in this state;
  - (c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;
  - (d) the primary purpose of the event is the training of others in the practice of medicine; and
  - (e) neither the patient nor an insurer is billed for the services performed.

Amended by Chapter 262, 2013 General Session

**58-67-306 Status of licenses held on the effective date of this chapter.**

An individual holding a current license as a physician and surgeon that was issued under any prior state law is considered to hold a current license in the same classification under this chapter.

Enacted by Chapter 248, 1996 General Session